



February 12, 2019

Members, House Committee on Consumer Protection & Commerce
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: HB 93 – Succession of Digital Media Accounts
OPPOSE

Dear Chair Takumi, Vice Chair Ichiyama, and Committee Members,

On behalf of the Internet Association (IA), I submit this letter expressing our **OPPOSITION** to **HB 93** and urge you to hold the bill in your committee. The bill would require that companies turn over the login credentials of a deceased user's digital media accounts to the heirs of the deceased user, with negative implications for consumer privacy and in potential conflict with federal law.

HB 93 would require any digital media account of a decedent to pass to the decedent's heirs if no other individuals were designated, in likely violation of the federal Stored Communications Act (specifically 18 USC 2702). Many providers of digital media accounts are prohibited by federal criminal law from disclosing the contents of communications stored in digital accounts which would be covered by this bill. This includes accounts for photo storage, video storage, audio storage, etc. and particularly when those items have been specifically placed in the account for storage by the end user. Other federal privacy laws may also prohibit sharing access to or content in such accounts, such as the Video Privacy Protection Act (VPPA), 18 USC 2710.

The requirement that providers turn over the specific passwords of deceased users is also impractical. Most providers do not have access to plaintext passwords that they can just hand over to another individual because security best-practices require that passwords be encrypted.

Ultimately, account holders are in the best position to make sure that their heirs and estates have access to the information and assets that they store in digital accounts. Even so, federal laws like the VPPA and state laws like the California Reader Privacy Act recognize that content that a person chooses to view, listen to or read can be sensitive and privacy intrusive. An individual should be able to choose whether their heirs or estates are able to access such information and it should not be a decision that is overruled on a statewide basis through law. If an individual chooses not make access to a digital account available to his or her estate, that should be a choice that is respected by the state.



For these reasons and more, we urge your **OPPOSITION** to **HB 93** and urge you to hold the bill in committee. Should you have any questions regarding our position, please feel free to contact me at callahan@internetassociation.org or (916) 836-8983. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Callahan', with a stylized, cursive script.

Robert Callahan
Vice President, State Government Affairs